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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,764	04/12/2001	William R. Frolik	10004764-1	3752

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EXAMINER

REFAI, RAMSEY

ART UNIT

PAPER NUMBER

2152

DATE MAILED: 04/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/834,764	FROLIK ET AL.
	Examiner	Art Unit
	Ramsey Refai	2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 02 February 2006.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-48 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-48 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

DETAILED ACTION

Response to Amendment

Responsive to Amendment received February 2, 2006. Claims 1, 6, 13, 15, 23, 28, 36, 40 and 46 have been amended. Claims 1-48 are remain pending further examination.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8, 10 – 20, 23 – 34, 36 – 42, 44 – 48 are rejected under 35 U.S.C. 103(a) as being unpatentable by Stumm (U.S Patent 5,768,528) in view of Peterson et al (U.S. Patent No. 6,594,682).

3. As per claim 1, Stumm teaches a method for delivering sequentialized content to a user's content receiving device, comprising the steps of:

obtaining content having a plurality of portions arranged in a predetermined sequential order (column 2, line 21-22; scheduled events);

determining a next portion of said plurality of portions for the user to receive in accordance with said predetermined sequential order (column 6, line 35 – 55); and

delivering a portion of said plurality of portions of said content to the user's content receiving device in accordance with said first delivery rule and said determined next portion (column 6, line 35 – 55)

wherein a delivery schedule is required to comply with publisher defined physical and temporal dimensions of the content to preserver artistic qualities of the content (Fig 4, column 3, line 63-column 4, line 8, column 5, line 56-column 6, line 46, column 10, lines 25-31).

Stumm fails to teach accepting a first delivery rule from the user for said content, wherein the user creates and controls a custom issue delivery schedule

4. However, Peterson et al teach a scheduler that allows a user to coordinate delivery of subscribed web content (column 8, line 54-column 9, line 15, column 11, lines 1-24) and the content is indexed and categorized according to descriptive information such modified date (column 6, lines 17-26) thereby allowing content to be viewed in order it was modified. It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to combine the teachings of Stumm and Peterson et al because it would allow a user the ability to coordinate delivery of content at off-hours in order to help alleviate congestion and the burden on servers and also to allow a user to view content at the users convenience.

5. As per claim 2, Stumm teaches a method wherein said step of accepting said first delivery rule further comprises the step of accepting said first delivery rule from a provider of said content (column 1, line 48 – 64; subscribers).

6. As per claim 3, Stumm teaches a method further comprising the step of receiving a request for content delivery from the user's receiving device (column 1, line 48 – 65).

7. As per claim 4, Stumm teaches a method wherein said step of determining a next portion further comprises the step of recalling an indication of which portion of said plurality of portions was last delivered to the user's content receiving device (column 6, line 35 – 55).

8. As per claim 5, Stumm teaches a method wherein said step of determining a next portion further comprises the step of determining a user's service sign-up date (column 9, line 40 – 50 and column 10, line 16 – 20; subscriber identifier contains information such as sign up information).

9. As per claim 6, Stumm teaches a method for receiving, by a user's content receiving device, sequentialized content having portions arranged in predetermined sequential order, comprising the steps of:

establishing a second delivery rule (column 1, line 55 - 60; subscriber database that contains list of files, file sizes and file names) and

requesting delivery at a time in accordance with said second delivery rule of a next portion of the sequentialized content that has been selected in accordance with said first delivery rule and a determination of a last portion of the sequentialized content delivered to the user's content receiving device (column 1, lines 48 - 65).;

wherein a delivery schedule is required to comply with publisher defined physical and temporal dimensions of the content to preserver artistic qualities of the content (Fig 4, column 3, line 63-column 4, line 8, column 5, line 56-column 6, line 46, column 10, lines 25-31).

10. Stumm fails to teach receiving a first delivery rule from the user, wherein the user creates and controls a custom issue delivery schedule.

11. However, Peterson et al teach a scheduler that allows a user to coordinate delivery of subscribed web content (column 8, line 54-column 9, line 15, column 11, lines 1-24) and the content is indexed and categorized according to descriptive information such modified date (column 6, lines 17-26) thereby allowing content to be viewed in order it was modified. It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to combine the teachings of Stumm and Peterson et al because it would allow a user the ability to coordinate delivery of content at off-hours in order to help alleviate congestion and the burden on servers and also to allow a user to view content at the users convenience.

12. As per claim 7, Stumm teaches a method further comprising the step of accepting delivery of said next portion (column 6, lines 25 – 55).

13. As per claim 8, Stumm teaches method in accordance with the method of claim 7 further comprising the step of making said at least a first portion perceptible to a human (Figure 10, 288 shows a monitor).

14. As per claim 10, Stumm teaches a method further comprising the step of identifying said delivered next portion of the sequentialized content as said last portion (column 6, lines 25 – 55).

15. As per claim 11, Stumm teaches a method further comprising the step of storing said first delivery rule at the user's content receiving device (column 4, line 64 – column 5, line 5; subdirectory).

16. As per claim 12, Stumm teaches a method further comprising the step of storing said first delivery rule at a remote location (column 1, line 48 – 55; server contains information related to predetermined downloading schedules).

17. As per claim 13, Stumm teaches a method for providing sequential issues of information to a subscriber's computing device according to a variable schedule, the method comprising the steps of:

depositing a plurality of sequential issues of information from a publisher in a repository (column 1, lines 48 – 53; database server);

establishing a schedule at a server in accordance with a subscriber parameter (column 1, lines 48 – 63; subscriber's database contains information such as file names, file names and file identification code);

making said sequential issues of information available to the subscriber's computing device according to said publisher's rule and said schedule at said server (column 1, lines 48 – 62);

wherein the delivery schedule is required to comply with publisher defined physical and temporal dimensions of the content to preserver artistic qualities of the content (Fig 4, column 3, line 63-column 4, line 8, column 5, line 56-column 6, line 46, column 10, lines 25-31).

18. Stumm fails to teach establishing a publisher's rule for delivery of said sequential issues to the subscriber's computing device, wherein a publisher's rule for delivery is based on a user defined and controlled custom issue delivery schedule.

19. However, Peterson et al teach a scheduler that allows a user to coordinate delivery of subscribed web content (column 8, line 54-column 9, line 15, column 11, lines 1-24) and the content is indexed and

categorized according to descriptive information such modified date (column 6, lines 17-26) thereby allowing content to be viewed in order it was modified. It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to combine the teachings of Stumm and Peterson et al because it would allow a user the ability to coordinate delivery of content at off-hours in order to help alleviate congestion and the burden on servers and also to allow a user to view content at the users convenience.

20. As per claim 14, Stumm teaches a method comprising grouping sequential issues of information to encompass all of the sequential issues of information currently available from the publisher (column 3, lines 39 – 50).

21. As per claim 15, Stumm teaches a method for providing sequential issues of information to a subscriber's computing device according to a variable schedule, the method comprising the steps of: storing the sequential issues of information in a repository (column 1, lines 48 – 53; database server);

determining a maximum available issue number (column 3, lines 48 –50; number of updates per date available);

wherein the delivery schedule is required to comply with publisher defined physical and temporal dimensions of the content to preserver artistic qualities of the content (Fig 4, column 3, line 63-column 4, line 8, column 5, line 56-column 6, line 46, column 10, lines 25-31).

transmitting the publisher delivery rule to the computing device (column 3, lines 39 – 50);

determining a publisher's current issue value for the sequential issues of information (column 6, lines 30 –55);

determining a subscriber's current issue value for the sequential issues of information (column 6, lines 30 –55); and

when the subscriber's current issue value is equal to zero (column 6, lines 30 –55; when the subscribers scheduled has not taken place) or the subscriber's current issue value is less than the publisher's current issue value, (column 6, lines 30 –55; when the time for the next scheduled event has come) making an issue of the sequential issues of information available to the computing device in response to the subscriber's current issue value (column 6, lines 30 –55; a scheduled task or event occurs accordingly).

22. Stumm fails to teach determining a publisher's rule for delivery of said sequential issues to the subscriber's computing device, wherein a publisher's rule for delivery is based on a user defined and controlled custom issue delivery schedule.

23. However, Peterson et al teach a scheduler that allows a user to coordinate delivery of subscribed web content (column 8, line 54-column 9, line 15, column 11, lines 1-24) and the content is indexed and categorized according to descriptive information such modified date (column 6, lines 17-26) thereby allowing content to be viewed in order it was modified. It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to combine the teachings of Stumm and Peterson et al because it would allow a user the ability to coordinate delivery of content at off-hours in order to help alleviate congestion and the burden on servers and also to allow a user to view content at the users convenience.

24. As per claim 16, Stumm teaches a method comprising the step of determining an inception date that indicates a date the subscriber subscribed to the sequential issues of information (column 9, lines 40 – 50).

25. As per claim 17, Stumm teaches a method wherein the step of determining a publisher's current issue value comprises using the publisher delivery rule (column 9, line 20 – 27 and column 9, line 45 – 51); subscriber controls time which a subscriber is scheduled to access server system, the current date (column 2, lines 10-16), the inception date (column 9, lines 40 – 50 and column 10, lines 15-20; using

subscriber identifier to get sign-up information), and the maximum available issue (column 3, lines 48 – 50; the number of updates per date) to determine the publisher's current issue value (column 9, lines 40 – 51 and column 10, lines 15 – 25).

26. As per claim 18, Stumm teaches a method wherein the step of determining a publisher's current issue value further comprises

the step of determining the lesser of two values according to the function (column 8, lines 15 – 50; CRC codes):

MIN (Nmax, NUM_ISSUES (Rpublisher, Tnow, T0)), where the publisher's delivery rule, Rpublisher, (column 9, line 20 – 27 and column 9, line 45 – 51), the current time, Tnow (column 2, lines 10-16), and the time of initial subscription, T0 (column 9, lines 40 – 50 and column 10, lines 15-20, define the function NUM_ISSUES() that yields a number of unique issues that the publisher would make available during a time interval from T0 to Tnow, and the function MIN() that returns the lesser of two values.

27. As per claim 19, Stumm teaches a method wherein the step of determining a subscriber's current issue value of the sequential issues of information includes the step of incrementing the subscriber's current issue value when the subscriber's current issue value is less than the publisher's current issue value (column 7, line 4 – column 8, line 54; if CRC codes are different, update occurs).

28. As per claim 20, Stumm teaches a method comprising the step of transmitting an error message to the subscriber when the subscriber's current issue value is greater than or equal to the publisher's current issue value (column 7, lines 23 – 30).

29. As per claim 24, Stumm teaches a method wherein said step of subscribing further comprises the step of subscribing to a service provider (column 1, lines 10-25).

30. As per claim 47, Stumm teaches an apparatus wherein said repository comprises a hard drive resident in a computer server (column 1, lines 48 – 55; database on server).

31. As per claim 48, Stumm teaches an apparatus wherein transmitter further comprises a network interface device that is coupled to the internet (column 3, lines 50-62; subscriber software system).

32. As per claims 23, 25 – 34, 36 – 42, and 44 – 48, they contain similar limitations as claims 1 – 8 and 10 –20, therefore are rejected under the same rationale.

33. Claims 9, 21-22, 35 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stumm (U.S Patent 5,768,528) in view of Peterson et al (U.S. Patent No. 6,594,682) and in further view of Milovanovic et al (U.S. Patent No. 6,484,198).

34. As per claim 9, Stumm fails to show a method wherein said step of accepting delivery further comprises the step of receiving a uniform resource locator for the sequentialized content.

35. However, Milovanovic et al show a method comprising receiving a uniform resource locator for the sequentialized content (column 2, lines 10 –25). It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to combine the teachings of Stumm, Peterson et al and Milovanovic because Milovanovic et al use of URL would allow a subscriber in Stumm and Peterson et al's system to receive the address of the page they are requesting.

36. As per claim 21, Stumm fails to show a method wherein the step of making available includes the steps of: generating a file locator using the subscriber's current issue value; and transmitting the file locator to the subscriber's computing device.

37. However Milovanovic et al show a method wherein generating a file locator using the subscriber's current issue value; and transmitting the file locator to the subscriber's computing device (column 2, lines 10 –25). It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to combine the teachings of Stumm, Peterson et al and Milovanovic because Milovanovic et al use of URL would allow a subscriber in Stumm and Peterson et al's system to receive the address of the page they are requesting.

38. As per claims 22, 35 and 43, they contain similar limitations as claims 9 and 21-22, therefore are rejected under the same rationale.

Response to Arguments

39. Applicant's arguments have been fully considered but they are not persuasive.

- In the remarks, the Applicant argues in substance that:

Argument A:

the combined references are still missing the Applicant's claimed delivery schedule that is required to comply with publisher defined physical and temporal dimensions of the content to preserve artistic qualities of the content.

Argument B:

the combination should not be considered together because Stumm teaches away from the Applicant's invention.

- In response to:

Argument A:

Examiner respectfully disagrees. Stumm teaches that the publisher can make available updated information throughout the day. Financial newspapers may prepare a few additions of their electronic paper as certain information is updated throughout the day, which is then sent to the user. Stumm also teaches the system looks back at a series of scheduled events that should have taken place and executes some or all of the one that were never launched. Therefore Stumm teaches that the data can include multiple consecutive files sent in order and teaches updated editions of data that are sent to the user in sequential order, which meets the scope of the claimed limitation.

Argument B:

Examiner respectfully disagrees. Chapter 2142.02 VI states "*Prior art must be considered in its entirety, including disclosures that teach away from the claims. A prior art reference must be considered in its*

entirety, i.e., as a whole, including portions that would lead away from the claimed invention.” Although Stumm may teach away from the claims, the combination of Stumm with Peterson et al teaches the claimed invention. Both references are directed to the scheduling of the delivery of electronic content to a user. Stumm fails to teach accepting a first delivery rule from the user for said content, wherein the user creates and controls a custom issue delivery schedule. However, Peterson et al teach a scheduler that allows a user to coordinate delivery of subscribed web content (column 8, line 54-column 9, line 15, column 11, lines 1-24) and the content is indexed and categorized according to descriptive information such modified date (column 6, lines 17-26) thereby allowing content to be viewed in order it was modified. It would have been obvious to one of the ordinary skill in the art at the time of the applicant’s invention to combine the teachings of Stumm and Peterson et al because it would allow a user the ability to coordinate delivery of content at off-hours in order to help alleviate congestion and the burden on servers and also to allow a user to view content at the user’s convenience.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

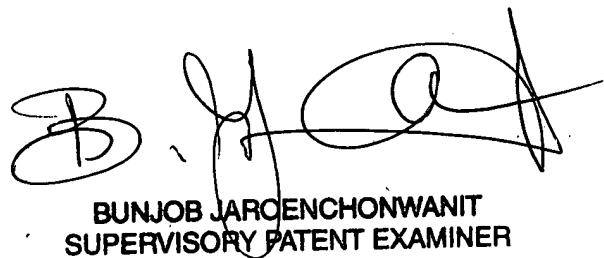
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey Refai whose telephone number is (571) 272-3975. The examiner can normally be reached on M-F 8:30 - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ramsey Refai
Examiner
Art Unit 2152



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SUPERVISORY PATENT EXAMINER